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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/684,326

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Michael D. Ellis

UV-35 Cont.

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09/18/2008

ROPES & GRAY LLP

PATENT DOCKETING 39/361

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EXAMINER

PENG, FRED H

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/684,326	Applicant(s) ELLIS ET AL.	
	Examiner FRED PENG	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 06/19/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of the full statutory term prior patent No. 6,665,869 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

2. Applicant's arguments filed on 06/19/2008 have been fully considered but they are not persuasive.

The Applicant argues on page 19 of Remarks that there is no way the Examiner can logically read the current claims on Lajoie's VCR timer. The VCR timer does not issue a request to Lajoie's guide (assuming that is what the Examiner relies on to show a program guide application interface) to access the VCR - it controls the VCR directly. It is simply not the claimed architecture.

The Examiner respectfully disagrees with applicant's arguments. After reading more into Lajoie's disclosure since a phone interview is conducted with the Applicant, new evidence from Lajoie indicates that the VCR timer function (FIG.11, 255; non-guide application) is not just controlling the VCR directly as the Applicant claims; but instead, it controls VCR recording through an equivalent program guide application interface (FIG.11, 257; Para 112; Para 29) as it interfaces to the program guide to instruct which program at what time and channel to record; subsequently use the program guide resource, time and channel and device resource, the tuner for tuning to record as in the claim 43.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 43-86 are rejected under 35 U.S.C. 102(e) as being anticipated by LaJoie et al (US 2005/0015804).

Regarding Claims 43, 54, 65 and 76, LaJoie discloses a system (FIG.1) with corresponding method and computer-readable media (FIG.3, item 32) for allowing non-guide applications implemented on user television equipment (FIG.3, items 6, 59, 60) to use device resources within the user television equipment and program guide resources associated with an interactive television program guide (FIG.9) implemented on the user television equipment, the system comprising:

means for receiving, with a program guide application interface (FIG.11, item 257), a request directly from a requesting non-guide application (item 255) to use one of a device resource (VCR recording) and a program guide resource (schedule to record a program via a tuner); and

means for directing the request to the one of the device resource (VCR recording) and the program guide resource (request the tuner to receive a schedule program) using the program guide application interface (FIG.11, 257; Para 112; Para 29; Para 31; VCR Timers setting 257 is the program guide application interface as it interfaces to the program guide to show which program at what time and channel to record).

Regarding Claims 44, 55, 66 and 77, LaJoie further discloses the device resource is selected from the group consisting of an on-screen display resource (FIG.3, item 46), a front-panel display resource (54), a user input interface resource (59), a tuner resource (42), a

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communications circuitry resource (43, 58), a set-top box resource (6), and a memory resource (32).

Regarding Claims 45, 56, 67 and 78, LaJoie further discloses the program guide resource is selected from the group consisting of a tuning resource (FIG.10, 230; tuning favorite channels), a parental control resource (FIG.10, 228), a graphics library resource (guide display), a pay program purchasing resource (234), a program guide database access resource (222), a scheduling resource (FIG.14), and a program guide menu resource (322).

Regarding Claims 46, 57, 68 and 79, LaJoie further discloses maintaining a registered application list (FIG.10, items 228-238).

Regarding Claims 47, 58, 69 and 80, LaJoie further discloses processing control requests from the interactive television program guide (FIG.10, item 228, 230) and non-guide applications (232, 234, 236, 238).

Regarding Claims 48, 59, 70 and 81, LaJoie further discloses directing user input to the interactive television program guide and non-guide applications (FIG.10, use remote keys to select 136 or navigate with arrow keys 128).

Regarding Claims 49-50, 60-61, 71-72 and 82-83, LaJoie further discloses coordinating multiple requests to utilize the device resource and program guide resource (Para 114 lines 1-12).

Regarding Claims 51, 62, 73 and 84, LaJoie further discloses suspending the operation of one of the applications (Para 114 lines 6-12; suspending one program when schedule more than one programs to record).

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Regarding Claims 52, 63, 74 and 85, LaJoie further discloses resolving conflicts between applications that desire access to a user input device at the same time (Para 114 lines 23-28; recorder is a user input device; resolving conflicts to record).

Regarding Claims 53, 64, 75 and 86, LaJoie further discloses resolving conflicts between applications that request access to the same remote control keys of a remote control at the same time (FIG.12, 272; Para 114 lines 12-25; request same key to confirm subscription of PPV or cancel recording).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner

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